

From: "Joanne Kalas" <joanne.kalas@foster.com>  
To: "Mednick, Richard" <Mednick.Richard@epa.gov>  
CC: "Lori Terry" <lori.terry@foster.com>  
"Perkins, Brandon" <Perkins.Brandon@epa.gov>  
Date: 9/18/2019 12:16:08 PM  
Subject: RE: EPA Access to Gunshy Manor  
Attachments: [53515955-v2-Gunshy Manor Consent for Access Form\\_09.18.2019.DOC](#)  
[53515955-v2-Gunshy Manor Consent for Access Form\\_09.18.2019\\_Signed.pdf](#)

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Richard,

Attached is the revised consent form, both in track changes and as signed by my client. As discussed, please send us the SAP and QAPP when prepared by EPA's consultant. Thank you.

Best regards,  
Joanne

Joanne C Kalas  
[Attorney](#) | FOSTER PEPPER PLLC  
1111 Third Avenue, Suite 3000 | Seattle, WA 98101-3299  
P: 206.447.8982 | E: [joanne.kalas@foster.com](mailto:joanne.kalas@foster.com)

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From: Mednick, Richard [mailto:Mednick.Richard@epa.gov]  
Sent: Thursday, September 12, 2019 5:17 PM  
To: Joanne Kalas  
Cc: Lori Terry; Perkins, Brandon  
Subject: RE: EPA Access to Gunshy Manor

Joanne,

As we discussed during our call a few minutes ago, lets plan to talk further on Monday about the consent form provisions and any other matters related to EPA access.

Below is a link to the target analytes which EPA intends to sample for at the Gunshy Manor property.

- o <https://www.epa.gov/clp/inorganic-analytical-service-within-superfund-contract-laboratory-program>

Thank you, Richard

Richard Mednick  
Associate Regional Counsel  
Regional Judicial Officer  
U.S. EPA I Region 10  
1200 Sixth Avenue  
Suite 155, M/S 11 C07  
Seattle, WA 98101  
(206) 553-1797

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From: Joanne Kalas <[joanne.kalas@foster.com](mailto:joanne.kalas@foster.com)>

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Sent: Thursday, September 12, 2019 4:24 PM  
To: Mednick, Richard <[Mednick.Richard@epa.gov](mailto:Mednick.Richard@epa.gov)>  
Cc: Lori Terry <[lori.terry@foster.com](mailto:lori.terry@foster.com)>; Perkins, Brandon <[Perkins.Brandon@epa.gov](mailto:Perkins.Brandon@epa.gov)>  
Subject: RE: EPA Access to Gunshy Manor

Richard,

As a follow up to my voicemail, I am a colleague of Lori Terry. Please let me know when you are available to discuss EPA's request for access at Gunshy Farm. As you suggested, I think we need a few more days to allow us to connect and discuss EPA's access form. I have some questions and would like to review with you some needed edits to the form. I am in the office all day tomorrow and Monday to discuss. Thank you.

Best regards,  
Joanne

Joanne C Kalas  
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From: Mednick, Richard [<mailto:Mednick.Richard@epa.gov>]  
Sent: Thursday, September 12, 2019 2:24 PM  
To: Lori Terry  
Cc: Perkins, Brandon  
Subject: RE: EPA Access to Gunshy Manor

Lori,

While EPA appreciates the offer of your client to perform the sampling, EPA is not amenable to that approach as it would necessitate a complicated level of specifics, oversight, contracting, monitoring and review without a more guaranteed result. When I previously indicated that EPA may be able to accept validated sampling results as part of the evaluation, I had meant results from any previous already completed sampling of the fill material.

The consent for access form that I have provided to you is the form that EPA uses for this type of work. Once that form is signed by your client, EPA will be able to share a SAP and QAPP.

Please let me know whether your client needs a few more days to sign the consent for access form or whether it can be accomplished today as requested by EPA.

Thank you,

Richard

[Richard Mednick](#)  
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Seattle, WA 98101  
(206) 553-1797

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From: Lori Terry <[lori.terry@foster.com](mailto:lori.terry@foster.com)>  
Sent: Thursday, September 12, 2019 10:41 AM

To: Mednick, Richard <[Mednick.Richard@epa.gov](mailto:Mednick.Richard@epa.gov)>  
Cc: Perkins, Brandon <[Perkins.Brandon@epa.gov](mailto:Perkins.Brandon@epa.gov)>  
Subject: RE: EPA Access to Gunshy Manor

Richard,

Thank you for your emails and our phone call last week. As I mentioned during our last call, over the past five years, my client has always fully cooperated with EPA to provide information and access when requested. For that reason, please do not assume or construe that my client will deny EPA reasonable access to the property as you have requested. My client would like to continue to cooperate with EPA, however, as described below we are unable to sign the form you provided as it is currently written by your deadline of August 12<sup>th</sup>. Instead, we propose to work with EPA to negotiate and implement a reasonable sampling plan and are prepared to begin work on that with you immediately.

In your August 23<sup>rd</sup> email you stated that EPA is interested in obtaining representative data on the Gunshy Farm property where fill was placed, and that EPA would like up to five subsurface samples. In the alternative, you mentioned that my client could provide EPA with validated sampling results. We are amenable to have our client's consultant conduct the sampling in cooperation with EPA's consultant, which would save EPA from using its funds to conduct the sampling. If EPA were to perform the work, our client would require EPA and its consultant to enter into a customary access agreement to address injury or property damage that may arise during the sampling and data sharing, along with the right of our client to obtain split samples. The terms of access would also need to include adding our client as an additional insured to your consultant's insurance.

As a first step we suggest that a call could be scheduled between the project manager at Ecology and Environment and our consultant. We would like to establish the locations for the proposed sampling (subject to any utility clearance that may be required) along with any required SAP or QAPP details that are required for the sampling effort. All validated results of the sampling would be shared with EPA. In addition, we want to establish a clear understanding of the screening criteria that will be used for the assessment. As we have indicated, our client is concerned that this issue has been raised by individuals with a vested interest in preventing development rather than being motivated by a genuine concern for the environment. For this reason we believe it is mutually beneficial for there to be an agreement in advance about the scope of the required initial assessment and the metrics by which the samples will be assessed.

It occurs to me that a call might be helpful. If you agree, please let me know. I am available today until 4pm, tomorrow from 10-12, and next week. Lori.

Lori Terry Gregory  
**ATTORNEY**  
Foster Pepper PLLC  
Tel: 206.447.8902  
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From: Mednick, Richard [<mailto:Mednick.Richard@epa.gov>]  
Sent: Friday, September 06, 2019 2:53 PM  
To: Lori Terry  
Cc: Perkins, Brandon  
Subject: EPA Access to Gunshy Manor

Lori,

On August 23, 2019, on behalf of the United States Environmental Protection Agency (EPA), I requested consent for access to the property referred to as Gunshy Manor. The Consent for Access form which I provided to you that day has not been signed and returned to EPA. I am again including this form as an attachment and ask that the signed form be returned to me by no later than Thursday, September 12, 2019. The failure to return the signed form by that date will be construed as a denial of consent for EPA to access the Gunshy Manor property.

I am also attaching the petition that was provided to EPA by more than 50 persons requesting an assessment of the

Gunshy Manor property under Section 105(d) of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), 42 U.S.C. § 9605(d). EPA takes this petition seriously and the requested access will allow EPA to sample fill material at the property. The data from this sampling is needed to help fulfill EPA's obligation to effectively evaluate the property. *See* Section 300.410 of the National Oil and Hazardous Substances Pollution Contingency Plan (NCP), 40 C.F.R. § 300.410. EPA has the authority to enter the Gunshy Manor property in order to perform the sampling by virtue of Sections 104(e)(3) and (4) of CERCLA, 42 U.S.C. §§ 9604(e)(3) & (4).

EPA has reviewed the response you provided to the petition in a letter dated October 12, 2018, and has taken into account the information you provided in that response. At this point, EPA has no sampling data for the fill material that was placed on the Gunshy Manor property. The potential presence of contamination in that fill material is a prime subject of the petition and is of concern to EPA. Based on the petition, your response, and a site visit, EPA has formed the reasonable belief that there may be a release or threat of release of a hazardous substance or pollutant or contaminant at the Gunshy Manor property. As a result, EPA has determined it is necessary to sample the fill material.

The sampling will take approximately one day to complete and, if requested, EPA will provide splits of the samples to the owner, operator, tenant, or other person in charge of the property.

Please return the signed Consent for Access form to me by no later than Thursday, September 12, 2019.

Thank you,

Richard

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Regional Judicial Officer  
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